

REMARKS

Claims 1, 7, 28, 34 and 35 have been amended. Claim 6 is canceled. Claims 1-5 and 7-35 remain in the application.

Claims 6-9 are rejected for indefiniteness. It is submitted that the cancellation of claim 6 and the amendments to claim 7 have removed the basis for this rejection and the applicants respectfully request that it be withdrawn.

Claims 1-10, 13-17, 19, 20, 27, 29-31, and 34 are rejected for anticipation by US 6901216 ("Jusiak"). That rejection is respectfully traversed for the following reasons.

Claims 1 and 34 have been amended to recite a fluid warming cassette including, among other elements, "a planar stiffener, separate from the first and second rails, disposed between the first sheet and the second sheet, and extending from the first to the second rail, near the proximal end." This arrangement is clearly seen in FIGS. 1-3 of the application. In Jusiak, the interconnect bar 42 only extends from the inlet tube 38 to the outlet tube 40, not from the from guide rail section 28a to guide rail section 28b. If the support bar 30c is read as a planar stiffener, it is not "disposed between the first sheet and the second sheet". Accordingly, Jusiak omits "a planar stiffener, separate from the first and second rails, disposed between the first sheet and the second sheet, and extending from the first to the second rail, near the proximal end."

With respect to claim 7, the cassette of claim 1 further includes "a handle portion in the proximal end constituted of the first and second sheets sandwiching the stiffener." The only handle in the proximal end 12 of Jusiak's cassette is the support bar 30c, which is not "sandwiched by" the films 32 and 34.

With respect to claim 8, the planar stiffener includes "a first elongate portion extending between the first and second rails and a second portion protruding from the first portion toward the fluid channel." In FIG. 4b of Jusiak, the portion that curves out is not shown or described as "protruding from the first portion toward the fluid channel."

Accordingly, the rejection of claims 1-10, 13-17, 19, 20, 27, and 34 for anticipation by Jusiak should be withdrawn.

Claims 29-31 are rejected for anticipation by Jusiak. That rejection is respectfully traversed. Claim 29 recites "a handle portion formed near a proximal end of the fluid container by sandwiching a planar piece in the fluid container." The contention in the Office Action is that "either 42 or the portion curving out in FIG. 4b could be used as a handle." However, the interconnect rod is described only as interconnecting the inlet and outlet tubes 38 and 40, not as "a handle". The applicants respectfully request

identification of a passage in Jusiak where 42 or the portion curving out in FIG. 4b are described as being used as a handle. In fact, Jusiak makes no such disclosure in the description or figures. In FIG. 1 of Jusiak, the sole figure where the interconnect bar 42 is shown in the assembled cassette, the only element that is described as being used for grasping is the support bar 30c. If the interconnect bar 42 is considered to inherently function as a handle, the applicants request extrinsic evidence of such capability. Even if the “portion curving out in FIG. 4b” of Jusiak could be used as a handle, it is not “formed near a proximal end of the fluid container by sandwiching a planar piece in the fluid container.” Accordingly, the rejection of claims 29-31 for anticipation by Jusiak should be withdrawn.

Claims 11, 12, 28, 32, and 33 are rejected for obviousness over Jusiak in view of US 5205348 (“Tousignant”). That rejection is respectfully traversed for the reasons given above in respect of Jusiak’s omission of “a planar stiffener, separate from the first and second rails, disposed between the first sheet and the second sheet, and extending from the first to the second rail, near the proximal end”, and for the following further reasons.

The alleged suggestion to combine Jusiak with Tousignant is “to provide ports that the sheets/films can seal around, rather than sealing to the ports individually as taught by Jusiak ...”. In fact, Jusiak and Tousignant employ incompatible port schemes that cannot be combined with any reasonable expectation of success.

Tousignant’s inlet and outlet adapters 18 and 20 shown in Fig. 4 are threaded into through hole portions of a frame. At col. 7, lines 10-15, Tousignant points out an important benefit realized by this construction: “it is advantageously easy to seal the inlet and outlet adaptors to the heat transfer device 10 *without having to seal* flexible film to the inlet and outlet adaptors 18 and 20.” Similar considerations apply to the inlet and outlet adaptors in Tousignant’s Figs. 5 and 6. Jusiak, however, discloses that the inlet and outlet tubes *are sealed* to the films 32 and 34 in order to be securely positioned in the cassette. According to Jusiak at col. 3, lines 33-40, this provides a “superior attachment” that reduces the “chance that the tubes will be unintentionally released from the seal when the cassette is removed from the warming unit.” Thus, Jusiak teaches away from combination with Tousignant. Further, substitution of Tousignant’s inlet and outlet adaptors would violate the fundamental superior attachment principle of Jusiak’s construction thereby raising a reasonable expectation that the combination would, in

fact, not succeed. Accordingly the rejection of claims 11, 12, 28, 32, and 33 for obviousness over Jusiak in view of Tousignant should be withdrawn.

Claim 18 is rejected for obviousness over Jusiak in view of US 6608968 ("Bakke"). That rejection is respectfully traversed for the reasons given above in respect of Jusiak's omission of "a planar stiffener, separate from the first and second rails, disposed between the first sheet and the second sheet, and extending from the first to the second rail, near the proximal end", and for the following further reasons.

Bakke's Fig. 4 shows a fluid warming envelope 16 with a "paperboard inserter 26" attached to its "rightmost end". Inspection and comparison of Bakke with Jusiak will confirm that Bakke's paperboard inserter 26 and Jusiak's tongue are positioned at the same ends of their respective devices. Since Jusiak labels this end the distal end, it is fair to say that Bakke's inserter 26 is positioned at the distal end of the envelope 16. But the planar stiffener of claim 18 inherits the "near the proximal end" limitation of claim 1, from which claim 18 depends. Further, Bakke does not teach or suggest that the inserter 26 is a stiffener, or that its function is to stiffen the fluid warming envelope 16. Instead, the inserter 26 is inserted into a warming unit to guide the fluid warming envelope 16 through the warmer "like a needle pulls a thread", and to extend out the far end of the warmer where it is grasped to pull the fluid warming envelope into place. See Bakke at col. 6, lines 30-39. Thus, the inserter 26 is at the end of Bakke's fluid warmer that corresponds to the *distal* ends of the fluid warming cassette of claim 18 and Jusiak's cassette, and Bakke does not teach or suggest that the inserter 26 is a stiffener.

With respect to the contentions in the Office Action regarding labeling of ends with respect to Bakke, the "distal" end implicit in claim 18 by dependency from claim 1 is defined in the specification at page 12, lines 20-23. That is, the distal end is the end 46 inserted "between the plates 14 and 16" in order to slide the warming cassette 10 inwardly between the plates 14 and 16 until the stopping mechanism 27, 29 halts further insertion. In repeating this passage here, the applicants are merely pointing out that the applicants have defined "distal end" in the specification. Further, the term "distal end" as used in the specification and in claim 18 comports with Jusiak's use of the term, thus establishing the scope of reasonable interpretation for this term.

Accordingly the rejection of claim 18 for obviousness over Jusiak in view of Bakke should be withdrawn.

Claims 21-26 are rejected for obviousness over Jusiak in view of US 4707587 ("Greenblatt"). That rejection is respectfully traversed for the reasons given above in

respect of Jusiak's omission of "a planar stiffener, separate from the first and second rails, disposed between the first sheet and the second sheet, and extending from the first to the second rail, near the proximal end", and for the following further reasons.

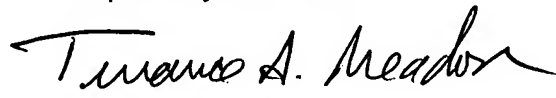
At col. 1, lines 34-45, Jusiak specifically singles out Greenblatt as representative of an undesirable warming cassette construction. Accordingly Jusiak teaches away from being combined with Greenblatt and the rejection of claims 21-26 for obviousness over Jusiak in view of Greenblatt should be withdrawn.

Claim 35 is rejected for obviousness over Jusiak in view of Tousignant, and further in view of US 4568330 ("Kujawski"). That rejection is respectfully traversed for the reasons given above in respect of Jusiak's omission of "a planar stiffener, separate from the first and second rails, disposed between the first sheet and the second sheet, and extending from the first to the second rail, near the proximal end", for the lack of suggestion to combine Jusiak with Tousignant, and for the following further reasons.

Kujawski discloses a system for cooling drugs prior to perfusion onto the heart, in which a bubble trap removes bubbles from cooled fluid prior to perfusion of the heart. This reference does not address the problems of warming parenteral fluid prior to infusion into a body. There is, therefore, no suggestion to combine Kujawski with Jusiak. Moreover, Kujawski's system does not include "an injection site coupled to the outlet of the bubble trap." Accordingly the rejection of claim 35 for obviousness over Jusiak in view of Tousignant and Kujawski should be withdrawn.

It is submitted that these Remarks establish that claims 1-5 and 7-35 are allowable over the references of record, early notice of which is earnestly requested.

Respectfully submitted,


TERRANCE A. MEADOR
Reg. No. 30, 298

Date: *November 13, 2006*

INCAPLAW
1050 Rosecrans Street, Suite K
San Diego, CA 92106

Telephone: (619) 222-2531 Fax: (619) 222-2327